

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Assignee.....Micron Technology, Inc.
Group Art Unit.....2823
ExaminerW. Coleman
Attorney's Docket No.MI22-1385
Customer No.021567
Title: Deposition Methods and Apparatuses Providing Surface Activation

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

To: MS ISSUE FEE
Commissioner for Patents
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REMARKS

Claims 3, 4, 6-9, 11, 13, 15, 28-30, 34-37, 41-43, 55, and 56 are pending in the application and are allowed. Applicant takes strong exception to certain of the Office's statements regarding reasons for allowance. The Office is reminded that the patent statutes require claims to be presented and interpreted in accordance with what the Applicant regards as its invention, not what the Office regards as the invention. Accordingly, the Office must read the claims as Applicant regards them (as they are literally worded), not as the Office might regard them. Certain of the Office's

statements refer to language that is not in all of the claims and, accordingly, do not follow from allowability of claims that do not literally include such language. Certain of the Office's statements might be interpreted later as reading limitations into Applicant's claims which simply are not there, or otherwise indicate that the Applicant must regard its invention as that which the Office has interpreted outside the literal claim language.

The statement of reasons for allowance on page 2 of the Notice of Allowance alleges that the claims are allowable because the prior art fails to teach a surface activation agent which may be one of sixteen agents listed on page 2. The statement of reasons for allowance is apparently based upon claims 4 and/or 29 which set forth that the surface activation agent comprises at least one of TiCl_4 , WF_6 , hexamethyldisilazane, tetrakis(dimethylamido)titanium, tetraethylorthosilicate, H_2O , methanol, ethanol, isopropanol, formic acid, acetic acid, oxalic acid, NH_3 , methylamine, ethylamine, or dimethylamine. The Office's allegation might be interpreted to conclude that the Office reads Applicant's claims to include these limitations and that, therefore, all of the claims are so limited. Yet, Applicant did not include such limitations in all of its claims as filed and had no intention that all of its filed and examined claims would be so limited. Instead, only claims 4 and 29 of the allowed claims set forth any limitations similar to the statement of reasons for allowance.


The Office must interpret the claims in accordance with their literal wording and, to the extent the Examiner has not already done so, such is mandated now. If the Office based allowance upon language not appearing in the claims, then the Office must reject the claims and suggest insertion of such language. Then, Applicant can respond as it deems appropriate.

Allowance of the claims as literally worded is urged. Applicant notes that claim 55, from which claim 4 depends, and claim 56, from which claim 29 depends, do not set forth any list of specific surface activation agents encompassed by such claims. Under the well established doctrine of claim differentiation, the scope of claims 55 and 56 is necessarily interpreted to extend beyond the subject matter of claims 4 and 29 depending, respectively, from claims 55 and 56. Otherwise, claims 4 and 29 would be identical to claims 55 and 56. The remaining allowed claims similarly do not set forth limitations to the agents listed in claims 4 and 29. Claims 3 and 28 are notable as expressly setting forth a list of surface activation agents with a broader scope than respective claims 4 and 29.

At least for such reasons, the statement of reasons for allowance must be considered improper. Accordingly, this file history is to be interpreted as if the Office's statement of reasons for allowance in the Notice of Allowance never existed or was withdrawn. If the Office disagrees with this just stated position, then claim rejections are mandated or modification of the statement of reasons for allowance is warranted.

Respectfully submitted,

Dated: 17 Feb 2006

By: 
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